

and enhance fish, wildlife, and recreation resources affected by the development and operation of Federal reclamation projects in the State of Utah,” and, further, that these funds are to be administered in accordance with “the mitigation and conservation schedule in Section 315 of this Act, and if in existence, the applicable five-year plan.” Section 301 further clarifies that Commission expenditures “shall be in addition to, not in lieu of, other expenditures authorized or required from other entities under other agreements or provisions of law.”

(b) *Reallocation of funds.* Section 301(f)(2) provides for the reallocation of Section 8 funds if the Commission determines “after public involvement and agency consultation * * * that the benefits to fish, wildlife, or recreation will be better served by allocating such funds in a different manner.” Such reallocation requires the approval of the U.S. Fish and Wildlife Service if funds are to be reallocated from fish and wildlife purposes to recreation purposes. The Commission’s authority to depart from the mitigation and conservation schedule specified in Section 315 of the Act is reiterated in Section 301(h)(1).

(c) *Funding priority.* Section 301(f)(3) directs that the Commission “shall annually provide funding on a priority basis for environmental mitigation measures adopted as a result of compliance with the National Environmental Policy Act of 1969 for project features constructed pursuant to titles II and III of this Act.”

(d) *Plan adoption and content.* Section 301(g)(1) directs that the Commission adopt a plan “for carrying out its duties” and that the plan “shall consist of the specific objectives and measures the Commission intends to administer * * * to implement the mitigation and conservation projects and features authorized in this Act.”

(e) *Recommendations.* Section 301(g)(3)(A) directs that “the Commission shall request in writing from the Federal and State fish, wildlife, recreation, and water management agencies, the appropriate Indian tribes, and county and municipal entities, and the public, recommendations for objectives and measures to implement the mitiga-

tion and conservation projects and features authorized in this Act or amendments thereto.”

(f) *Public involvement.* Section 301(g)(3)(C) directs the Commission to provide for appropriate public involvement in the review of Commission documents produced subsequent to receiving recommendations.

(g) *Guidance on selecting measures.* Section 301(g)(4) identifies the types of measures that are to be included in the plan, namely those that will—

(1) Restore, maintain, or enhance the biological productivity and diversity of natural ecosystems within the State and have substantial potential for providing fish, wildlife, and recreation mitigation and conservation opportunities;

(2) Be based on, and supported by, the best available scientific knowledge;

(3) Utilize, where equally effective alternative means of achieving the same sound biological or recreational objectives exist, the alternative that will also provide public benefits through multiple resource uses;

(4) Complement the existing and future activities of the Federal and State fish, wildlife, and recreation agencies and appropriate Indian tribes;

(5) Utilize, when available, cooperative agreements and partnerships with private landowners and nonprofit conservation organizations; and

(6) Be consistent with the legal rights of appropriate Indian tribes.

(h) *Definite plan report.* Section 304 directs that mitigation commitments included in the 1988 draft Definite Plan Report for the Bonneville Unit of the Central Utah Project (DPR) which have not yet been completed are to be undertaken in accordance with that report and the schedule specified in Section 315 of the Act, unless otherwise provided for in the Act.

(i) *Implementation schedule.* Section 315 identifies mitigation and conservation projects to be implemented and provides a schedule and budget for doing so. Details on select components of Section 315 may be found in Sections 302 through 313, excluding Section 304.

§ 10005.6 Responsibilities.

Responsibilities concerning implementation of this planning rule are assigned as follows:

(a) *Commission.* The Commission is responsible for adopting this planning rule, including the project evaluation procedures contained herein. The Commission is also responsible for formal adoption of the final plan and, following this, approving, on a project by project basis, of agreements to implement the specific elements contained in the plan.

(b) *Executive Director and Commission staff.* The Executive Director and Commission staff are responsible for preparing planning documents, including preliminary evaluation of projects, and for consultation with agencies and other interested parties regarding the various aspects of the planning process, in accordance with procedures set forth in this planning rule.

(c) *Department of Interior Solicitor.* The Department of the Interior's Regional Solicitor acts as the agency's attorney-advisor and is responsible for advising the Commission on legal matters related to the planning rule, the plan, and the planning process as agreed upon between the Department and the Commission.

(d) *Secretary of the Interior's Representative to the Central Utah Project.* The Secretary's Representative is responsible for monitoring the plan, and activities undertaken as components of the plan, with regard to their consistency with the Act and their compatibility with other activities required by the Act. The Secretary's Representative is also responsible for coordinating relevant activities of other agencies within the Department of the Interior and for coordinating the process by which Congressionally appropriated funds are made available for Commission mitigation and conservation activities.

(e) *Interested parties.* Federal and State resource agencies, Indian tribes, and other interests are, should they choose to become involved, responsible for providing meaningful recommendations regarding potential projects, for coordinating the development of these recommendations with other appropriate agencies and organizations, and,

as applicable, for participation in implementation of projects.

§ 10005.7 Agency consultation and public involvement.

The Commission considers agency consultation and public involvement to be central components of the planning process. Interested parties will be given the opportunity to become involved at several stages in the plan development, process. The major opportunities are as follows:

(a) *Planning rule development.* The initial opportunity for involvement occurs in the preparation of this planning rule, through providing written or oral comment to the Commission prior to adoption.

(b) *Project recommendations.* The next opportunity is in the preparation of recommendations for projects to be included in the Commission's plan. The Commission will make a formal announcement that it is soliciting recommendations for potential projects. Interested parties will have ninety days within which to respond. Commission staff will, upon request and as dictated by work load, provide guidance and other assistance in the preparation of project recommendations. Interested parties are encouraged to work cooperatively with others in the preparation of joint recommendations. Commission staff will facilitate this as appropriate. Section 10005.18 provides additional direction on this. At the end of the ninety day period the Commission will make all recommendations received during that time available for public review. These will be available at the Commission office during normal business hours. Copies will also be provided to those requesting them at a reasonable charge.

(c) *Plan preparation.* At the close of the ninety day project solicitation period, the Commission will proceed to prepare a draft plan. Several opportunities for agency consultation and public involvement will be provided during the preparation of the plan. One or more public briefings will be held during this period. Briefings will be announced in appropriate local and regional media. Work sessions may also

be held, sponsored either by the Commission or jointly with other interested parties, to discuss individual projects or other topics of general interest. Interested parties may also request meetings with Commission staff to discuss specific projects or issues. The availability of staff for such meetings will be dictated by work load. During this time, interested parties may also attend, and participate in, Commission meetings where the various aspects of the plan are discussed. Written comments will also be accepted during the plan preparation period.

(d) *Review of draft plan.* Following release of the draft plan, interested parties will be given thirty days within which to provide formal written comments. During this time, interested parties may request meetings with Commission staff to discuss aspects of the draft plan. The Commission will also receive comments on the draft plan at appropriate times during regularly scheduled Commission meetings. The Commission may, at its discretion, convene one or more public meetings to discuss issues related to the draft plan.

(e) *Final plan.* The release of the final plan will be announced in the media and copies made available to the public. As warranted, the Commission may hold one or more meetings to brief interested parties on the final plan.

(f) *Amendments to the plan.* The opportunities for agency consultation and public involvement described above will also be provided each time the Commission undertakes a comprehensive revision of the plan. In addition, the Commission will give appropriate public notice and grant an opportunity to comment at such times as the Commission is considering other, less comprehensive amendments. Section 10005.21 provides additional information on how agencies and the public may become involved in the plan amendment process.

§ 10005.8 Mitigation obligations.

While the Act authorizes the Commission to undertake a wide range of general planning and mitigation activities, it also specifies certain projects or groups of projects that the Commission is to implement. The Commission con-

siders these obligations from the Act to be integral components of the mitigation and conservation plan and of the planning process used to develop this plan. From the perspective of the plan, two issues are germane. These are the extent to which these obligations must take priority over other projects, either in terms of funding or sequencing and the extent to which there is flexibility in the specific actions to be taken in fulfillment of these obligations. Through this planning rule and other means the Commission will ensure that interested parties are made aware of the implications of these obligations in order that they might use this information when participating in the development and implementation of the plan.

(a) *Description of mitigation obligations.* Obligations principally derive from three portions of the Act: Title II, section 304, and section 315. Following is a description of the obligations contained in each.

(1) *Title II.* Title II authorizes funding and provides guidance for completion of certain features of the Central Utah Project. It also provides for Commission involvement in several specific activities relating to Central Utah Project mitigation, including funding for specific Section 8 mitigation activities. In the future, additional Title II features will be implemented. These will be subject to environmental review through NEPA or other applicable Federal laws and will, in many instances, be coupled with mitigation measures. Section 301(f)(3) of the Act directs that priority be given for funding of mitigation measures that are associated with Central Utah Project features identified in either Title II or III of the Act that have been, or will be, authorized through compliance with NEPA.

(2) *Section 304.* This section directs that mitigation and conservation projects contained in the DPR be completed and that this be accomplished in accordance with the DPR and the schedule specified in section 315 of the Act. Several elements of the DPR have been either completed or initiated.

(3) *Section 315.* This section identifies several mitigation and conservation projects that are to be implemented to